



### *Fact Sheet*

## **CASE STUDY: HOW TWO LARGE BUSINESSES ARE COUNTED AS SMALL BUSINESS CONTRACTORS**

**Senator Claire McCaskill**

**Chairman, Subcommittee on Contracting Oversight**

Many contract awards recorded as going to small businesses are actually performed by large businesses.<sup>1</sup> In many cases, this happens because current regulations allow large business contract dollars to be counted towards agencies' small business goals.

In general, the SBA defines the size standards for small businesses based on the average number of employees for manufacturing industries and the average annual receipts for service industries.<sup>2</sup> SBA sets size standards for each of the more than 1,200 industries defined under the North American Industrial Classification System (NAICS), a business classification system maintained by the U.S. Census Bureau.<sup>3</sup>

When the federal government awards a contract, the contracting officer determines the NAICS code to describe the product or service being bought. The size standard for that NAICS code defines the size of business that can be counted as small for the contract.

### **Case Study 1 – How a Large Business Gets Small Business Contracts**

immixTechnology, a company which resells commercially available information technology hardware and software, is a subsidiary of a privately-held company, immixGroup.<sup>4</sup> In 2009, immixGroup had approximately \$403 million in reported revenue and 149 employees.<sup>5</sup>

In 2010, immixTechnology received more than \$18 million in new small business contracts using a special exemption to SBA's size standards. SBA limits wholesale companies to a maximum size standard of 100 employees and retail companies to a maximum revenue of approximately \$7 million to \$30 million, depending on the industry. However, SBA has created an exception to these industries under which contracting officers are required to use the classification for a manufacturing company, even if the contract is for a wholesale or retail purchase. This exception sets the size standard at 500 employees.<sup>6</sup>

In addition, immixTechnology may be taking advantage of the fact that contractors self-certify their size to the federal government. In 2010, immixTechnology certified that it was a small business in industries including software publishing (NAICS 511210) and other computer-related services (NAICS 541519), both of which establish a cap of \$25 million in revenue for businesses that can be considered small. immixTechnology was awarded contracts in these areas that were worth nearly \$500,000. In addition, immixTechnology received more than \$31,000 in small business set-aside contracts – contracts reserved for small businesses.

### **Case Study 2 – How a Large Business Keeps Small Business Contracts**

In 2010, VSE Corporation had four subsidiaries, 2,897 employees and \$866 million dollars in revenue.<sup>7</sup> That same year, VSE received \$165.3 million in small business contracts.

Although VSE was once a small business, it no longer qualifies for small business contracts. However, VSE still holds contracts that were awarded when the company was a small business. Under federal contracting regulations, these contracts count as small business contracts for the life of the contract despite the fact that the company is no longer a small business.<sup>8</sup>

For example, in October 2008 the Defense Department awarded a contract originally valued at up to \$2.6 billion to VSE for maintenance, modification, and repair of weapon systems. VSE exceed the size standard for this contract by the end of 2008, when it reported 1,920 employees. However, because VSE was considered a small contract at the time of award, for every year that this contract continues through the exercise of option years, the Defense Department counts this contract as a small business contract. In 2010, VSE received nearly \$40 million in task orders under this contract.

VSE may also have benefited from the government's determination that the NAICS code for this particular contract was for aircraft manufacturing (336411), which sets the size standard for a small business at 1,500 employees, the largest possible business size under SBA's standards. If the government had determined that the NAICS code for the contract was for aircraft maintenance and repair services (488190), the size standard would have been \$7 million.<sup>9</sup> Had the government used this NAICS code, which more closely matches the contract description than "aircraft manufacturing", VSE would not have been able to receive the contract as a small business set-aside.

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<sup>1</sup> U.S. Small Business Administration Office of the Inspector General, *Fiscal Year 2011 Report on the Most Serious Management and Performance Challenges Facing the Small Business Administration* (Oct. 15, 2011) (Report No. 11-01).

<sup>2</sup> 48 C.F.R. § 19.102; U.S. Small Business Administration, *SBA Size Standards Methodology* (April 2009).

<sup>3</sup> U.S. Census Bureau, *North American Industry Classification System* (July 20, 2011) (online at [www.census.gov/eos/www/naics/](http://www.census.gov/eos/www/naics/)).

<sup>4</sup> immixGroup, *Subsidiaries* (online at [www.immixgroup.com/company/subsidiaries/immixtechnology/](http://www.immixgroup.com/company/subsidiaries/immixtechnology/)) (accessed July 19, 2011).

<sup>5</sup> Hoovers, *Company Overview of immixGroup, Inc.*

<sup>6</sup> 13 C.F.R. § 121.406.

<sup>7</sup> VSE Corporation, *2010 VSE Annual Report and Form 10-K* (2010).

<sup>8</sup> 48 C.F.R. § 19.301-2

<sup>9</sup> U.S. Census Bureau, *North American Industry Classification System* (online at [www.census.gov/eos/www/naics/index.html](http://www.census.gov/eos/www/naics/index.html)) (accessed July 25, 2011); Small Business Administration, *Table of Small Business Size Standards* (online at [www.sba.gov/content/table-small-business-size-standards](http://www.sba.gov/content/table-small-business-size-standards)) (accessed July 25, 2011). The Census Bureau advises that establishments primarily engaged in the repair of aircraft rather than aircraft manufacturing, conversion, or overhaul should use NAICS 488190 rather than NAICS 336411. See U.S. Census Bureau, *2007 NAICS Definition: 336411 Aircraft Manufacturing* (online at [www.census.gov/cgi-bin/sssd/naics/naicsrch?code=336411&search=2007](http://www.census.gov/cgi-bin/sssd/naics/naicsrch?code=336411&search=2007)) (accessed July 25, 2011).